



# Justice Assistance News

• Justice Assistance legislation favorably reported by Senate Judiciary Committee is ready for Senate action. Both S. 53 and S. 1762 include financial assistance program for State/local criminal justice endorsed by the Reagan Administration.

Amendment added to both bills by Senator Robert Dole would fund corrections facility construction and modernization. (Details on page 3.)

• Fast action will be required on two key legislative issues concerning State/local criminal justice after Congress reconvenes September 12.

Fiscal year 1983 ends September 30 . . . with it the authority of NIJ, BJS and OJARS ends too. Funding for these agencies . . . and entire Department of Justice . . . will expire at same time . . . September 30.

Needed for continuation is passage of Justice Department appropriation bill or a stop-gap "continuing resolution" . . . plus final action on pending Justice Assistance Act or additional stop-gap resolution language to extend current program authority. (Story on page 3.)

Key Members of Congress are aware of problem . . . will take action to keep the agencies in operation.

• Richard B. "Rick" Abell has been named Deputy Assistant Attorney General and will assist in managing OJARS and directing the coordination of the JSIA agencies. (See page 2.)

• "Surprise" in BJS study is revelation that most male inmates incarcerated at age 40 and above are "first timers" confined for violent crimes. (Details on page 10.)

• OJJDP and NIJ team up to fund initial planning for a system capable of tracking and apprehending "serial murderers" and for tracing missing or abducted children and adults.

As many as 5,000 people . . . half of them juveniles . . . are murdered each year without apparent motive or by those who abuse and exploit children. Some 30 men are known to have killed from six to 60 people during the last 10 years. (Story on page 9.)

• Annual BJS census of State and Federal prisons shows another record high number of prisoners . . . 425,678. (See "Prison Population Sets Record High," page 4.)

• Attorney General Smith has issued guidelines for Federal prosecutors governing services to victims of crime in the Federal judicial system. Guidelines call for prosecutors to keep victims, witnesses better informed about available services and court proceedings. Victim's addresses will be kept confidential when possible to prevent harrassment by defendants. Judges will be informed of crime's impact on victim . . . will weigh in setting defendant's sentence.

Meanwhile . . . Victims of Crime unit established in OJARS by Assistant Attorney General Lois Herrington sets agenda for action. (Details on page 2.)

• Rand Corporation study for the National Institute of Corrections reports that in three states examined blacks and Hispanics receive longer prison sentences and serve more time than do whites convicted of similar crimes and with similar criminal records.

Survey also indicates that only 6 percent of burglaries, 21 percent of business robberies, 5 percent of forgeries, and less than 1 percent of illicit drug sales reported by the offenders resulted in arrest. (Story on page 4.)

• NIJ reports that one-third of employees surveyed from retail, manufacturing and service organizations steal from their employers. But, strict enforcement of company-wide policy against pilferage, inventory control system, better pre-employment screening can reverse employee thefts. (Details on page 11.)

• BJS Brief prepared this month by National Council on Crime and Delinquency discusses "dramatic changes in laws under which people are sent to prison." (See page 5.)

# Two DOJ Initiatives Begun To Aid Crime Victims

The U.S. Department of Justice has begun two major initiatives to help crime victims in Federal, State and local jurisdictions.

On July 11, Attorney General William French Smith promulgated detailed Federal guidelines concerning the treatment of crime victims and witnesses by Department of Justice investigators and prosecutors. They were issued in response to the Victim and Witness Protection Act of 1982, which called for more consideration of victims' needs and concerns within the Federal judicial system.

And on the same day, Lois Haight Herrington, Assistant Attorney General for Justice Assistance, created an Office for Victims of Crime in the Office of Justice Assistance, Research, and Statistics.

The new office will implement the recommendations of the President's Task Force on Victims of Crime. Its priority interests currently include:

- The creation of a National Resource Center for Victim Assistance.

- The development of model State legislation to remedy problems faced by crime victims.

- The preparation of victim training materials for judges, prosecutors and law enforcement personnel.

The office will work closely with State and local governments, other Federal agencies and various public interest groups and citizen organizations interested in helping crime victims.

Additional information concerning these activities can be obtained by writing the Office for Victims of Crime, 633 Indiana Avenue, N.W., Suite 1342, Washington, D.C. 20531.

The Federal guidelines call for a variety of victim and witness services, including help in finding assistance, such as medical or social services and counseling. Victims of Federal crimes will be informed about protection and possible restitution and advised on court proceedings and other actions, such as scheduling changes,

prosecution results and sentencing procedures.

The guidelines also will help protect victims' and witnesses' privacy. When possible, addresses will be kept confidential, and there will be separate waiting areas away from defendants during Federal court proceedings.

Consultation with the victims of serious crimes about certain decisions concerning the accused, such as dismissal of charges or plea bargaining, is included.

Federal prosecutors are directed to ensure that the impact of the crime on the victim is made known to probation officials and included in information presented to the court when the judge considers the defendant's sentence. Prosecutors also will advocate the victim's interests at sentencing.

The Federal guidelines are intended to serve as models for adoption by State criminal justice systems. ■

## Abell Named Deputy Assistant AG

Attorney General William French Smith has appointed Richard Bender Abell, 39, as Deputy Assistant Attorney General for Justice Assistance.

Mr. Abell will assist Lois Haight Herrington who was appointed Assistant Attorney General by President Reagan. Mrs. Herrington and Mr. Abell will direct the activities of the Office of Justice Assistance, Research, and Statistics. The Office coordinates the functions of the National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Bureau of Justice Statistics.

Mr. Abell, a decorated Vietnam veteran, was former world-wide programming and training coordinator for the Peace Corps.

Between 1981 and 1983, he oversaw Peace Corps programs in some 63 coun-

tries. As Director of the Office of Program Development, he visited 25 countries in Africa, Asia, and South America.

From 1979 to 1980, Mr. Abell served as Field Representative for central Pennsylvania for U.S. Senator Richard Schweiker.

From 1974 to 1979, he was Assistant District Attorney, Chester County, Pennsylvania. He has also served as police legal coordinator and worked with the Chester County Victim Witness Center, Chester County Rape Crisis Center, and Chester County Women's Resource Center.

He has served on the adjunct faculties of West Chester State College (1975), West Chester, Pennsylvania, and the Delaware Law School (1975-1977), Wilmington, Delaware. Mr. Abell was an associate at the law offices of Reilly & Fogwell, West Chester, from 1974 to 1980.

Mr. Abell volunteered for military service and, while serving in the U.S. Army Infantry in Vietnam, was severely wounded by machine gun fire. He was



Mr. Abell

awarded the Air Medal, Army Commendation Medal for Heroism, Purple Heart, and Combat Infantryman's Badge.

Mr. Abell received a bachelor of arts degree in 1966 and a law degree in 1974 from George Washington University. He was a Peace Corps volunteer in Colombia between 1967 and 1969, specializing in rural community development.

Mr. Abell is married to the former Lucia del Carmen Lombana-Cadavid. They have three children. ■

Attorney General Smith has determined that the publication of this periodical is necessary in the interests of the public business required by law of the Department of Justice. It is used for printing and distribution of documents required by the Director of the Department of Justice through September 30, 1984. Opinions expressed in articles do not necessarily reflect the official view of the Department of Justice.

# Senate Bills Propose Justice Assistance Programs

Two bills now before the Senate would establish a new and tightly focused program of financial and technical assistance to State and local criminal justice agencies.

The bills, S. 53, shepherded through the Senate Judiciary Committee by Senator Arlen Specter (R-Pa.), and Title VI of S.1762, President Reagan's Comprehensive Crime Control Act proposal, are virtually identical and would authorize a new program within the Department of Justice to provide funding for programs of demonstrated effectiveness in dealing with violent crime, repeat offenders, victim/witness assistance, and crime prevention.

The House of Representatives has passed a similar bill (H.R. 2175) sponsored by Congressman William J. Hughes (D-N.J.) and Harold S. Sawyer (R-Mich.). The major difference between the House and Senate proposals relates to the organizational structure of the program agencies.

Either Senate bill would establish an Office of Justice Assistance (OJA) within the Department of Justice that would be headed by an Assistant Attorney General.

## Four Units Created

Four separate units that would operate from within OJA would be created. They include a National Institute of Justice to promote and support criminal justice research; a Bureau of Justice Statistics to collect, analyze and disseminate criminal justice statistical information; a Bureau of Justice Programs to provide financial and technical assistance to State and local agencies; and a Bureau of Criminal Justice Facilities to provide funds to State and local governments for the construction and modernization of corrections facilities.

Each unit would be headed by a director appointed by the Attorney General and would be responsible for the day-to-day management and operation of the program. Both LEAA (which is still authorized under current law) and OJARS would be abolished.

The Bureau of Justice Programs would administer a block and discretionary grant program to provide funds for State and local projects dealing with career criminals, violent juvenile offenders, felony case processing by prosecutors and courts, Treatment Alternatives

to Street Crime (TASC) projects, victim/witness assistance programs, and other criminal justice activities. Block



grant funds would require a 50/50 match by the State or local governments.

The Bureau of Criminal Justice Facilities, added to the basic legislation by Senator Robert Dole (R-Kan.) during Judiciary Committee deliberations, would provide grants or, in conjunction with the Secretary of the Treasury, interest rate subsidies for bonds to finance the modernization and construction of prisons, jails and other correctional facilities.

## Emergency Assistance

The Senate bill also would establish an Emergency Federal Assistance program to provide financial and technical assistance to State or local jurisdictions faced with emergency law enforcement situations such as the Atlanta child-murders, the Mount St. Helens volcanic eruption and Gulf Coast hurricanes that have disrupted police communications.

Floor action on the Senate bills has not been scheduled. ■

## Agencies Await Authorization, Funding Bills

As September 30 approaches, and with it the end of the 1983 Fiscal Year, the Justice System Improvement Act (JSIA) Agencies await congressional action on pending bills (S.1762 and H.R. 2175) that would restructure and continue their activities, and on appropriations bills on which depend future funding.

The authorizations of the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, and the Bureau of Justice Statistics lapse on September 30. Although ample time appears remaining, Congress is in recess until September 12, leaving only 15 legislative days for action.

S.1762, the Administration's proposal, has been reported out of the Senate Committee on the Judiciary and awaits floor action. The companion bill, H.R. 2175, introduced by Congressman Hughes, passed the House in February. Should S.1762 or S.53, which is essentially Title VI of S.1762, pass the Senate, congressional action with H.R. 2175 could be law with a resultant compromise.

turning to the floor of the Senate and House for final vote.

Following passage by both Houses, the enrolled bill would be sent to the White House for the President's signature.

The appropriations picture also is uncertain. The House has appropriated no funds for State and local criminal justice assistance, although it provided approximately \$70 million for juvenile justice and \$40,500,000 for research and statistics.

The Senate Appropriations Committee provided \$69,300,000 for State and local criminal justice assistance and contains language that extends the current authorizing legislation (JSIA) for one year. The juvenile justice mark is \$70 million.

There is a distinct possibility that the JSIA will operate next fiscal year on a continuing resolution that would set funding somewhere between the House and Senate marks and would permit start-up of the new financial assistance program in advance of final passage of the pending authorization bills. ■

## Prison Population Sets Record High

The number of State and Federal prisoners rose by 13,288 during the first quarter of 1983 to a record 425,678 inmates, the Bureau of Justice Statistics has announced. The 3 percent State growth rate was substantially higher than in the previous quarter but below that recorded in the first quarter of 1982. The number of Federal prisoners grew at more than twice the State prisoner rate. During the quarter, the number of Federal prisoners exceeded 30,000 for the first time since 1977.

The increase in prison populations was widespread. Only seven States had declines during the quarter and in four of them the decline was less than 1 percent. In both Alaska and Hawaii the prison population increased by more than 10 percent.

The five largest prison systems—Texas (37,370), California (36,122), the Federal system (31,537), New York (28,919), and Florida (27,604)—accounted for about two of every five persons imprisoned on March 31.

The country as a whole incarcerated 175 persons for every 100,000 in the population. Incarceration rates among the States ranged from 47 per 100,000 population in North Dakota to 324 in Nevada. ■

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## Blacks, Hispanics Imprisoned Longer Than Whites, Study Says

Blacks and Hispanics receive longer prison sentences and serve more actual time than do whites convicted for similar crimes and with similar criminal records, according to a Rand Corporation study conducted in California, Michigan and Texas.

The researchers said, however, that they "did not find widespread, conscious prejudice against certain racial groups."

"Rather," they said, racial disparities "seem to have developed because the system adopted procedures without analyzing their possible effects on different racial groups."

The study pointed out that in 80 percent of all cases, the judge followed the sentencing recommendation of the probation officer who investigated the defendant's background.

"These reports are usually very comprehensive 'portraits' of offenders, containing personal and socioeconomic information, as well as details on their criminal habits and attitudes," the researchers said. "It may be, however, that such information distinguishes between races better than it predicts which offender will again commit crimes when he returns to society."

The two-year study was sponsored by the National Institute of Corrections, U.S. Department of Justice. It is based on data compiled in 1980 by the California Bureau of Criminal Statistics, which tracked the processing of 190,000 offenders from arrest to sentencing, and on a Rand survey of 1,400 male prison inmates in California, Michigan and Texas.

The study traces the defendant's treatment in the criminal justice system from commission of a crime to release from prison. It makes comparisons between whites and minority groups in over 30 categories of offenders' behavior and the system's response to that behavior.

According to the research, courts in California typically impose sentences of six and one-half months longer for Hispanics and nearly a month and one-half longer for blacks. In Michigan, courts impose sentences averaging more than seven months longer for blacks. In Texas, the average sentence imposed is three and one-half months longer for

blacks and two months longer for Hispanics.

Translated into actual time served in incarceration, the study found Hispanics typically serving five months longer than whites in California institutions, and blacks serving two and one-half months longer. Both Hispanics and blacks served about eight months longer in Texas.

Using prisoner self-reports, which were cross-checked for validity, the researchers found that only 6 percent of burglaries, 21 percent of business robberies, 5 percent of forgeries, and less than 1 percent of the drug sales reported by the offenders resulted in arrest.



Once a white, black, or Hispanic has committed a crime, the self-reports of prisoners show no significant racial differences in the rate of future criminal activities. Similar proportions of the races became career criminals.

According to the Rand report, once a defendant is charged with a crime, all offenders have about the same chance of being convicted of a felony, but white defendants are more likely than minorities to be convicted in the "plea bargaining" process.

Minority defendants are more likely to have their felony cases go to trial.

The report—R-2947-NIC, may be purchased from Rand's publications department, 1700 Main St., Santa Monica, California 90406. The price is \$10 per copy. ■



# BJS Brief

## Bureau of Justice Statistics

### 'Dramatic Changes' Seen In Sentencing, Parole

*This article was written by Jim Galvin of the National Council on Crime and Delinquency with the assistance of Brad Smith, Tanya Broder, Vince Valvano, Leslie Reiber and David Schaitberger of NCCD; it was edited by Carol B. Kalish of the Bureau of Justice Statistics.*

The United States has experienced dramatic changes in the laws under which people are sent to prison and in the mechanisms that control how long they stay there. A decade ago, in most jurisdictions, the courts had primary control over who went to prison, subject to negotiations carried out in the plea-bargaining process, within broad limits set by legislative statute. The parole board controlled the length of the prison term within broad limits set by the court and by law.

This general model had many variations but was the predominant approach to setting prison terms. In the past decade, however, legislative control over the sanctioning process has increased, due in large part to the problem of sentencing disparities, doubts about the efficacy of rehabilitation, and increased interest in incapacitation and deterrence. At the same time in some jurisdictions, the judiciary and the parole boards have taken steps to formalize their control over specific components of the sanctioning process. This report covers the January 1983 status of the key forms this change has taken. They can be grouped in the following categories:

**Determinate sentencing**—sentencing systems under which parole boards no longer may release prisoners before their sentences (minus good time) have expired;

**Mandatory prison terms**—statutes through which legislatures require that a prison term must always be imposed for convictions for certain offenses;

**Sentencing guidelines**—procedures designed to structure sentencing decisions based on measures of offense severity and criminal history;

**Parole guidelines**—procedures designed to structure parole release decisions based on measurable offender criteria;

**Good-time provisions**—statutes that allow for reducing a prison term based on an offender's behavior in prison; and

**Emergency crowding provisions**—policies that relieve prison crowding by systematically making inmates eligible for release sooner.

#### Prison Crowding and Prison Term Policy

Prison term policies such as mandatory prison terms and determinate sentencing influence the size of prison populations insofar as they affect 1) the number of

offenders sentenced to prison and 2) the length of time the offender serves in prison before release. Prison statistics show that the prison population is increasing in every State, and parole statistics suggest that the length of time served in prison is also rising. One result has been increasingly crowded State prison systems. Consequently, many States have sought ways to modify prison terms. A variety of measures have been taken. They include:

—Sentencing guidelines that use available prison capacity as a consideration in setting the length of terms (such as those in Minnesota).

—Mechanisms for accelerating good time.

—Direct release of certain prisoners—usually those already close to their release date—under administrative provisions (such as the emergency crowding law in Michigan, the use of commutation in Georgia, and the early-release program in Illinois).

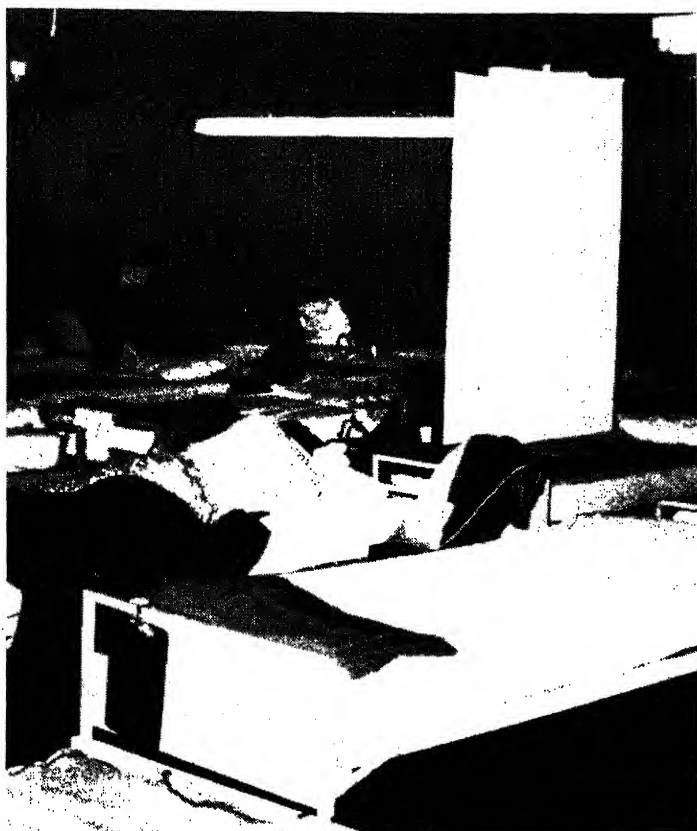
**Control over setting prison terms.** The power to set prison terms is distributed in various ways among the legislative, judicial and executive bodies in each State. In most jurisdictions, for most convictions, it is the judge who decides whether to punish by imprisonment or an alternative. This decision may be shared in part with other actors in the judicial system. Juries, prosecutors and defense attorneys may recommend sentences. Sometimes dispositions are worked out in advance through plea bargaining agreements involving the prosecutor, the defendant's attorney and often the judge as well.

If a convicted offender is to serve a prison term, the judge selects a minimum term, a maximum, or both, within the range provided by the penal code for that offense or offense class. The parole board, based on a regular review of the offender's case, determines the appropriate time for the release of the offender to the community. Versions of this model continue to exist in most States. In each State, the legislature plays an important role in defining the limits of judicial and executive (parole board) powers, restricting discretion or providing leeway to determine the amount of time a person serves in prison.

**Court discretion in length of prison terms.** The States vary in the degree of court and parole board discretion provided by law. The States can be described as either broad or narrow in the degree of judicial discretion over sentence length. Court discretion is defined as narrow if the range of sentencing options available to the judge is restricted by law to less than one-third the statutory maximum sentence length for each offense. For example, for persons convicted of a crime carrying a 12-year statutory maximum, judges with narrow discretion must select a sentence from within, at most, a four-year range.

Under this definition, judicial discretion over sentence length is narrow in 12 jurisdictions. In the remaining 41 jurisdictions court discretion is classified as broad, although the judicially imposed sentence may have little impact on the actual length of time an offender remains in prison.

**Parole board discretion.** In most States, the parole board may alter the amount of time served in prison by releasing prisoners to community supervision before the maximum sentence date. In some jurisdictions the legislature has



Lengthier sentences have resulted in overcrowding, the report says.

limited the releasing power of the parole board by requiring that prisoners must serve a flat minimum or proportion of the maximum sentence before becoming eligible for parole. In other jurisdictions parole board discretion is extensive—relatively unconstrained by law or not constrained at all. In cases where the discretion available to the parole board by law is broad, the board may nonetheless choose to exercise its discretion narrowly.

Forty-one States, the Federal system, the District of Columbia, and the California Youth Authority give some degree of discretion in the release of prisoners to the parole board. (In some instances the California Department of the Youth Authority (CYA) has been distinguished from the California Department of Corrections (CDC). These two State agencies have separate parole boards. In addition to its juvenile commitments the California Department of the Youth Authority can accept at its discretion adult court commitments for those up to age 21; it may hold offenders up to age 25.) Where the parole board has this power, persons entering prison may have no clear idea of exactly when they will be released. Two persons receiving the same sentence may actually serve different lengths of time in prison. Thus the power of the parole board to release prisoners may diminish the role of the judge in setting prison terms. In the seven jurisdictions where judicial discretion is already relatively restricted—Arizona, California (CYA), Iowa, Ohio, Pennsylvania, Utah and West Virginia—this parole board discretion further limits the power of the courts to influence time served in prison.

**Determinate sentencing.** In nine States—California (CDC), Colorado, Connecticut, Illinois, Indiana, Maine,

Minnesota, New Mexico and North Carolina—the discretionary power of the parole board to release prisoners early has been eliminated. Under the sentencing statutes in these nine States, prisoners receive fixed sentences, which they must serve in full, minus any time off for good behavior. These States are commonly known as the determinate sentencing States.

In all determinate sentencing States, parole boards continue to handle revocations and good-time decisions. Discretionary paroling may also continue in these States, to a limited extent, for persons sentenced to life imprisonment, for persons sentenced before the current structure went into effect, or for youthful offenders.

Determinate sentencing first appeared in Maine in 1976. By 1979, six other States (California, Colorado, Illinois, Indiana, Minnesota and New Mexico) had eliminated the discretionary releasing power of the parole board for all or most State prisoners. During the last four years, however, only two States, North Carolina and Connecticut, have abolished parole board discretion. The nine determinate sentencing States differ considerably in the size and nature of their correctional populations and the procedures under which prison terms are imposed.

In the four determinate States with broad judicial discretion (Maine, Connecticut, Illinois and Indiana), the judge has great power to determine time served in prison. In Maine, statutes provide very broad ranges for four general classes of offenses (each carries a maximum but no minimum). The judge selects a single term from within that broad range, a flat sentence that must be served by the inmate. In Illinois, sentencing ranges are provided for seven classes of offenses. Extended ranges are provided for cases where aggravating factors are present. The judge selects one term from these ranges. The more serious the felony, the broader the sentencing options. For a less serious felony such as shoplifting, the regular sentencing range is one to three years with an extended range of three to six years. For a more serious felony such as armed robbery, the regular term range is four to 15 years with an extended term range of 15 to 30 years.

By contrast, in the five determinate sentencing States where judicial discretion is narrow—California (CDC), Colorado, Minnesota, New Mexico and North Carolina—the sentence prescribed by law becomes the most powerful factor in determining actual time served in prison. California law provides three specific sentencing terms for each offense or group of offenses. The middle term must be chosen in the absence of either mitigating or aggravating factors, the latter of which must be charged and proven in court. The prison term imposed must be justified by the proven facts of the case, and each case is reviewed by the Board of Prison Terms. In California, persons convicted of the same offense are likely to serve very similar periods of time in prison. Consequently, plea bargaining to negotiate the offense for which a defendant will be charged becomes particularly crucial in determining sentence lengths.

**Mandatory prison terms.** For a first-degree murder where the death penalty is not imposed, a prison term has always been customary, and this custom is usually written into law. Many States have identified other offenses for which a

prison term is deemed mandatory, and, for these offenses, have legislatively removed the court's discretion over the in/out decision (the decision to impose a prison term or to provide an alternative such as probation, fines, or suspended sentence).

The four broad offense categories in which mandatory prison terms are most often legislated are violent crime, habitual crime, narcotics violation and crime involving the use or possession of a firearm. Almost all of the States have mandatory prison term statutes in at least one of these categories. For those convicted under such statutes, a judge has no choice but to impose a prison sentence.

The most common mandatory prison-term statutes are for violent crime (a category that includes murder); 43 States have such laws. Habitual-offender laws, aimed at the career criminal, are in effect in 30 States. Mandatory prison terms for narcotics and firearm offenses tend to be the result of more recent legislation. Twenty-nine States and the District of Columbia have drug laws with mandatory imprisonment provisions and 37 States and the District of Columbia now have gun laws with mandatory prison terms for certain violations.

Statutes setting mandatory minimums are not necessarily the same as mandatory prison-term statutes. For example, a habitual-offender statute that dictates a mandatory minimum sentence or a statutory add-on term may be relevant only if the judge chooses a prison sentence. Mandatory prison-term statutes refer only to those crimes for which the court's discretion over the in/out decision has been eliminated by law.

**Sentencing guidelines.** In some States, the judge's decision to impose a prison term is constrained by the existence of sentencing guidelines. Sentencing guidelines consider the relative severity of an offense along with an offender's prior criminal history and background to derive a recommended sentence for the court. Three States—Minnesota (1980), Pennsylvania (1982) and Utah (1979)—have established statewide sentencing guidelines with specific recommendations on the in/out decision as well as the length of prison terms. In Minnesota and Pennsylvania, sentencing guidelines have been approved by the State legislature and written into law. In Utah, the State court system has guidelines formulated by administrative policy. In Washington, Florida and Maryland statewide guidelines have been legislatively ratified but in January 1983 were not yet in effect.

While the criminal statutes in virtually all States detail a general range of sentencing options deemed appropriate for any particular crime, sentencing guidelines attempt to direct the court to the available options it should choose in any given case. In each of the sentencing-guideline States, a sentence range is specified for most offenses based on the seriousness of the offense and the extent of the criminal history of the offender.

The range and form of the prescribed sentence can vary significantly from State to State, as the cases of Minnesota and Pennsylvania demonstrate. In Minnesota, a non-imprisonment alternative is the recommended sentence for most property crimes in which the offender's criminal history is not extensive. Pennsylvania guidelines, in contrast, generally specify non-confinement only for misdemeanor offenses where mitigating circumstances are

involved. For normal misdemeanor cases, minimum ranges of zero to six or zero to 12 months are specified regardless of an offender's prior record. Furthermore, Minnesota sentencing guidelines provide judges with a relatively narrow sentence range for a given level of offense severity combined with a given history of criminal activity. From this range, one fixed term is chosen. Pennsylvania sentencing guidelines, however, are broad, specifying a minimum range, an aggravated minimum range, and a mitigated minimum range, from which the judge chooses a minimum term. (The maximum term is set by statute.)

A sentencing commission in each State monitors the use of the guidelines and departures from the recommended sentences by the judiciary. Written explanations are required from judges who depart from guideline ranges. The Minnesota Sentencing Guidelines Commission states that "while the sentencing guidelines are advisory to the sentencing judge, departures from the presumptive sentences established in the guidelines should be made only when substantial and compelling circumstances exist." Pennsylvania sentencing guidelines stipulate that court failure to explain sentences deviating from the recommendations "shall be grounds for vacating the sentence and resentencing the defendant." Furthermore, if the court does not consider the guidelines or inaccurately or inappropriately applies them, an imposed sentence may be vacated upon appeal to a higher court by either the defense or the prosecution.

Six other court systems—Maryland, Massachusetts, Rhode Island, Vermont, Washington and Wisconsin—have



The judge's discretion in sentencing has been constrained by sentencing guidelines in some States.



Prisoners can earn good time through school participation.

sentencing guidelines that currently apply only in certain jurisdictions or to a limited range of offenses. In some cases these selectively applied guidelines represent the pilot phase of a study that may eventually lead to the establishment of a statewide sentencing guidelines policy.

**Parole guidelines.** In 14 States, the District of Columbia, and the Federal system, the discretion of the parole board to release prisoners is limited by explicit parole guidelines enacted by the legislature or voluntarily adopted by parole boards. In California, parole release has been eliminated for all prisoners under the authority of the California Department of Corrections except for those serving life imprisonment terms. The Board of Prison Terms applies parole guidelines to determine prison-term lengths for those prisoners. In Minnesota, parole guidelines are used only for prisoners sentenced before the advent of determinate sentencing in 1980.

Although nearly all States have legislative statutes that define general criteria for parole release, formal parole guidelines attempt to make these criteria explicit and measurable. Parole guidelines are used by parole boards to measure the presumed risk that an offender will commit additional crimes while on parole based on such factors as the offender's prior convictions, substance abuse history, and prison behavior. A decision on when to release an offender (i.e., on how long a term should be served) is then made by the parole board based upon both the presumed risk and the severity of the current offense. Most guidelines allow for exceptions to specified term lengths if mitigating or aggravating circumstances are involved. Prison behavior, either good or bad, is often considered.

## Reducing Prison Terms

**Good-time policies:** Good-time policies in most States significantly contribute to prison-term reduction. All but

four States (Hawaii, Pennsylvania, Tennessee and Utah) award prisoners days off their minimum or maximum terms for maintaining good behavior or participating in various prison activities or programs. The amount of good time that can be accrued varies widely among States—from five days a month to 45 days a month in several States. Good time can be an incentive to encourage cooperative behavior, and can result in a major reduction of the sentenced term.

Good-time policies are often written into State statutes but may also be non-statutory system-wide correctional policies. Good time is typically awarded and administered by a State's department of corrections or by individual prison wardens.

Forty-one States, the Federal system and the District of Columbia award good-time credit to prisoners for good behavior. Typically, this credit is automatically awarded and subtracted from a prisoner's sentenced term at the time of prison entry and then rescinded in whole or in part for unsatisfactory behavior. In Oregon, good-behavior credit is subtracted from the maximum sentence and so does not affect a prisoner's parole eligibility date or actual time served unless the prisoner is not paroled and serves the maximum term. But more often the minimum sentence is reduced by good time, so that good-time policies become a significant element in prison-term length. This is particularly relevant for States that have eliminated discretionary parole release.

A few States award good time in ways that do not reduce sentence length. In New Hampshire, for example, a number of "disciplinary days" are automatically added to the minimum term, and it is from this number that good behavior days are subtracted. If the prisoner accrues all of his good time, the disciplinary days will be canceled out, and his parole eligibility date will occur, as scheduled, on the completion of his minimum sentence. Otherwise, he is penalized by a delay in his eligibility date.

Good-time reductions based on positive actions of the prisoner are in effect in 33 States and the Federal system. These reductions result from participating in various programs (work, school, rehabilitative counseling, medical research, blood donation) or from meritorious conduct (including success under minimum security). In January 1983, the California Department of Corrections eliminated automatic time off for good behavior; prisoners sentenced after that date must earn all their good time through work or school participation.

**Emergency crowding provisions:** Another, and slightly different, kind of prison-term reduction has come about in response to prison crowding. For example, Michigan's Emergency Overcrowding Act requires that when the prisons are over 100 percent capacity for 30 days, an emergency is declared, and all parole eligibility dates are moved forward by 90 days. Similar rollback schemes have been adopted by Connecticut, Georgia, Illinois, Iowa, Ohio and Oklahoma and are pending in several other State legislatures.

(Information presented in this bulletin was sent to the court administrator, parole board chairman, and attorney general in each State for verification. The characterization of States is based on the laws in effect in January 1983.) ■



## ***Project Will Trace Missing Persons, Track Killers***

A project designed to lay the groundwork for a nationwide system for tracing missing or abducted children and adults, as well as for tracking and apprehending "serial murderers" and to explore the link between abuse and delinquency has been announced by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the National Institute of Justice (NIJ).

The Sam Houston State University Criminal Justice Center, in Huntsville, Texas, will oversee several planning sessions around the country.

The planning process will deal with child pornography, child prostitution and juvenile delinquency resulting from sexual abuse and exploitation of children. Alfred S. Regnery, OJJDP Administrator, said that this knowledge will be integrated into the establishment of a Violent Criminal Apprehension Pro-

gram (VI-CAP). It is envisioned that VI-CAP will use the 52,000 data input terminals of the National Crime Information Center (NCIC) to help track missing persons—both children and adults—and to allow the Behavioral Science Unit of the FBI to analyze crimes apparently committed by serial offenders, whether rapists, murderers or child molesters.

### **5,000 Murdered**

In announcing the cooperative agreement with Sam Houston State University, Mr. Regnery pointed out that law enforcement authorities estimate that as many as 5,000 people a year—half of them juveniles—are murdered without apparent motive or by sadomasochists, pedophiles, pimps who live off children, or child abusers.

"There currently is no national center for analysis and collection or correlation

of patterns of violent crime," he said. "The participants in the first planning session believe that a national violent crime analysis center at the Behavioral Science Unit of the FBI could use crime data from all of the Nation's law enforcement agencies to allow quicker identification and apprehension of society's most feared violent criminals by local law enforcement officials.

"When police have an unsolved or apparently motiveless killing in one State, they could send a summary of the evidence to be analyzed and programed into a computer. Most criminal justice experts think we may find that there are many more serial murders, rapes and molestations than we can now discern."

### **Personality Profiles**

Mr. Regnery also said, "The FBI's Behavioral Science Unit already has the capability of profiling the personality of violent criminals based on evidence from the crime scene and surviving victims. The Unit currently provides these profiles to local law enforcement officials upon request." Mr. Regnery believes that coupling this capability with the ability to track these criminals will give law enforcement officials powerful new tools for dealing with a serious national problem.

James K. Stewart, Director of the National Institute of Justice, which is also supporting this planning process, said that in known psychopathic serial killings alone, 30 men have killed from six to 60 people over the last 10 years.

"In the overwhelming majority of cases," Mr. Stewart said, "these killers have not been arrested as a result of multi-jurisdiction tracking of their killing spree. Rather, they have been arrested for a recent local killing or killings. Arresting authorities all too often were unaware that the greater number of the killers' victims were strewn across state lines."

Further information may be obtained by contacting Robert O. Heck, Special Emphasis Division, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531, (202) 724-5924. ■



**The project aims to identify and apprehend serial murderers.**

# BJS: Many Middle-Aged Inmates Enter Prison For The First Time

Almost half of the male inmates who enter the Nation's State prisons when they are 40 years old or older are in prison for the first time, the Bureau of Justice Statistics reports.

Steven R. Schlesinger, the Bureau director, said, "This finding may mean that most offenders who begin their criminal careers in adolescence or young adulthood end their involvement with prisons before age 40, suggesting that many repeat offenders had dropped out of crime by the time they reached this age."

The middle-aged inmates—those age 40 and older—were among the 11,397 prisoners surveyed during 1979, when there were more than 274,000 State prisoners throughout the Nation. This group of older inmates was selected because it included men with criminal careers of widely varying lengths. The finding that the inmates with the shortest criminal careers constituted such a large segment of the middle-aged inmate population was one of the study's most surprising findings, the Bureau said.

Generally speaking, the typical middle-aged prison inmate is the type of person whose life has had repeated difficulties, not only with the law but also with such other areas of life as education, marriage, parenthood, military service, employment and drug and alcohol use, the study said. For example:

—More than 26 percent of the middle-aged inmates had at least one family member who had also been imprisoned.

—Almost 41 percent had less than a ninth grade education.

—More than 15 percent had never married.

—Of those who had never married, almost 25 percent had children.

—More than 22 percent were unemployed at the time of their imprisonment offense.

—Almost two-thirds were in an alcohol abuse treatment program at some time during their lives.

Additional findings of interest resulted when the Bureau's researchers examined career patterns according to the age of the inmate at the time of each imprisonment:

—One category, representing 14 per-

cent of the middle-aged inmates, was incarcerated first in adolescence (through age 17), reincarcerated in young adulthood (ages 18-39) and again incarcerated in middle age (age 40 and over).

—A second category, representing 1 percent of the middle-aged inmates, was incarcerated first in adolescence and was not reincarcerated until middle age.

—A third category, representing 38 percent of the middle-aged inmates, was incarcerated first in young adulthood and was reincarcerated in middle age.

—The fourth category, representing 47 percent of the middle-aged inmates, was incarcerated only in middle age.

The study found great differences among the career types in both the kinds of crimes and the length of sentences for which middle-aged prisoners were then incarcerated. Robbery, property and drug offenses were characteristics of

those who had prior confinements during adolescence and/or young adulthood. Murder, manslaughter and rape were more common offenses for those without long criminal histories.

Less than half of those with the longest prison records were imprisoned for a violent crime during middle age, but two of every three inmates who entered prison for the first time during middle age were confined for a violent crime, the study said.

Maximum sentences imposed on the middle-aged inmates revealed that a prior imprisonment record was extremely important to the sentencing decision. Though their crimes were qualitatively different from those with the shortest criminal careers, inmates with confinements during earlier age periods received sentences that averaged more than 22 percent longer.

Single copies of the study, "Career Patterns in Crime," may be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850, telephone (301) 251-5500.

Table 3. Number of offenses for which currently imprisoned, and percent distribution of offenses by type of criminal career

Offense	Number of offenses <sup>1</sup>	Career type (percent distribution)				Total
		1	2	3	4	
<b>Violent</b>	15,494	11.6%	1.0%*	35.7%	51.7%	100%
Murder	3,920	6.2	1.6*	27.6	64.7	100
Attempted murder	537	16.4	0.0*	45.4	38.2	100
Manslaughter	2,382	10.5	1.1*	33.7	54.7	100
Kidnaping	315	17.5	0.0*	27.1	55.4	100
Rape, sexual assault	1,892	11.8	0.0*	30.3	57.9	100
Lewd act with child	554	0.0	0.0*	25.5	74.5	100
Robbery	2,763	23.2	0.0*	46.6	30.3	100
Assault	2,959	9.0	2.2*	41.6	47.2	100
Extortion	57*	0.0	0.0*	47.4	52.6	100
Other violent	114*	24.3	0.0*	51.3	24.3	100
<b>Property</b>	7,410	23.9	2.4*	44.2	29.5	100
Burglary	2,542	32.9	1.2*	37.6	28.3	100
Forgery, fraud	1,721	13.3	1.7*	57.1	27.9	100
Larceny-theft	1,792	26.8	4.9*	40.1	28.2	100
Arson	279*	10.0	10.0*	30.1	50.1	100
Other property	1,076	18.4	0.0*	50.1	31.9	100
<b>Drug</b>	2,713	16.7	1.0*	54.8	27.6	100
Trafficking	1,369	16.4	0.0*	48.0	35.6	100
Possession	1,139	20.0	2.5*	60.2	17.4	100
Other drug	205	0.0	0.0*	69.8	30.7	100
<b>Public order/other</b>	3,776	10.6	0.7*	32.4	56.4	100
Weapons	934	13.0	2.9*	27.7	56.4	100
Traffic	1,233	4.5	0.0*	28.0	67.4	100
Other	1,609	13.8	0.0*	38.5	47.9	100

Note: Detail may not add to total because of rounding. Estimated values of less than about 300 are based on too few cases to be statistically reliable.

<sup>1</sup>The number of offenses is greater than the number of inmates because some inmates were imprisoned for more than one offense.

\*Estimate based on 10 or fewer cases is statistically unreliable.

# One-Third Of Employees Steal Company Property

A National Institute of Justice study has found that one-third of employees surveyed in a sample from retail, manufacturing and service organizations reported stealing company property. Further results revealed that almost two-thirds reported sick leave abuse, drug or alcohol abuse and other misconduct causing "counterproductive workmanship."

James K. Stewart, NIJ Director, said the study, "Theft by Employees in the Work Organization," disclosed that company policies can be the most effective tool to reverse employee theft. The study found that companies could substantially reduce employee theft and related behavior by establishing, publicizing and strictly enforcing a company-wide policy against employee pilferage; use of an inventory control system; and evaluation of job histories during pre-

employment screening.

Mr. Stewart said, "The study shows that employee pilferage alone is costing American business between a minimum of \$5 billion in losses per year to an estimated \$10 billion maximum. This loss is hurting us all because it is passed along to all of us as consumers in the form of higher prices. The study strongly suggests that employers can greatly reduce this toll through better organizational controls and employee incentives."

The three-year study by the University of Minnesota's Department of Sociology was based on surveys conducted in Dallas-Fort Worth, Minneapolis-St. Paul, and Cleveland, cities representing a wide range of urban crime rates.

The study found that "counterproductive behavior"—which included extra-long lunch hours and work breaks—was much more prevalent than

actual theft, but that to a large extent those engaged in this counterproductive behavior also were doing most of the stealing.

According to the report, theft and counterproductive behavior could be minimized through a consistent organizational policy that makes clear that misconduct will be punished and that higher-level company officials and lower-level employees would be punished even-handedly. Although the typical employee in every sector was generally satisfied with his or her job, the dissatisfied employee was found to be more frequently involved in property theft and counterproductive practices.

"In short," said the researchers, "we found that those employees who felt that their employers were genuinely concerned with the workers' best interests reported the least theft."

Copies of the executive summary of the report are available on an interlibrary loan basis from the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. ■

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## Financial Aid Booklet Available

The Criminal Justice Center, John Jay College of Criminal Justice, has published a monograph to help police administrators get private financial support for training and other police programs.

The 31-page booklet provides background information, marketing rationale and practical skills necessary to effectively seek out and obtain private support for crucial training needs.

The publication tells how police departments can obtain funding from corporations, foundations and community-based organizations, outlines what a proposal should include, and describes how to select a training program.

*Police Funding for Police Training* is available from John Jay College of Criminal Justice, 445 W. 58th St., New York, New York 10019. It is free to police departments and \$2 to the public.



Washington, D.C. 20531

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**Allen F. Breed**, who retired last month as Director of the National Institute of Corrections, is the recipient of the International Half-way House Association's Margaret Mead Award.

Mr. Breed was recognized for his "continuous years of dedicated and outstanding service and contributions to the fields of juvenile and criminal justice."

Mr. Breed served as Director of the National Institute of Corrections, an agency of the U.S. Department of Justice, since 1978. He began his career with the California Youth Authority and later joined the Office of Juvenile Justice and Delinquency Prevention as a Visiting Fellow responsible for the evaluation of government efforts to reduce



delinquency and improve the juvenile justice system.

**Herman T. F. Lum**, the senior judge and acting chief justice of the Hawaii Supreme Court, is Hawaii's new chief justice. A graduate of the University of Missouri Law School, Justice Lum has a legal career that spans three decades and includes such posts as U.S. attorney, circuit judge, and senior family court judge.

The new chief justice was appointed associate justice of the high court in 1979. His was the first appointment under the new judiciary selection process in Hawaii.

Justice Lum fills a vacancy left by the resignation last year of William S. Richardson, who served as chief justice for 16 years.

**Professors Paul A. Freund and Daniel J. Meador** have received the American

Judicature Society's Justice Award for outstanding contributions to the Nation in promoting the effective administration of justice.

Mr. Freund, who chaired the Study Group on the Supreme Court Caseload in 1971, is currently the Carl M. Loeb University Professor Emeritus of Harvard University Law School, where he has been a faculty member since 1940. Mr. Freund, a prolific author, received an A.B. from Washington University and his LL.B. from Harvard University.

Mr. Meador is currently the James Monroe Professor of Law at the University of Virginia, where he is director of the Graduate Program for Judges.

Professor Meador served as an Assistant U.S. Attorney General, chaired the Courts Task Force of the National Advisory Commission on Criminal Justice Standards and Goals and was a member of the Advisory Council on Appellate Justice. ■